



RE: Confidential -- For Settlement Purposes

Evans, Rachel (ENRD)

to:

Sanoff, Robert, Kautsky, Peter (ENRD)

04/10/2012 11:20 AM

Cc:

"Ettinger, Jonathan", Sarah Flanagan

Hide Details

From: "Evans, Rachel (ENRD)" <Rachel.Evans2@usdoj.gov>

To: "Sanoff, Robert" <RSS@foleyhoag.com>, "Kautsky, Peter (ENRD)" <Peter.Kautsky@usdoj.gov>,

Cc: "Ettinger, Jonathan" <JME@foleyhoag.com>, Sarah Flanagan/R2/USEPA/US@EPA

1 Attachment



ENV\_ENFORCEMENT-#2175268-v1-sp\_notes\_cd\_calculations.XLS

Robby –

The short answer to your question is that the percentages paid by the federal PRPs differ from the percentages being paid by CDE because the federal PRPs are paying a premium on EPA's response costs, but not on the NRD, while CDE is not paying any premium.

To assist you and Jonathan in your analysis of the math underlying the consent decree, I have attached our worksheet which we used to calculate the numbers. We hope it will clear up any lingering questions, but are happy to discuss if it does not.

Best regards,

Rachel

Rachel K. Evans

Trial Attorney

U.S. DOJ - Environmental Enforcement Section

P.O. Box 7611 Washington, DC 20044-7611

Phone: (202) 514-5471 | Fax: (202) 514-8865

Rachel.Evans2@usdoj.gov

FedEx, overnight mail, and courier deliveries:

601 D Street, N.W. Washington, DC 20004

---

**From:** Sanoff, Robert [<mailto:RSS@foleyhoag.com>]

**Sent:** Monday, April 09, 2012 2:07 PM

**To:** Kautsky, Peter (ENRD)

**Cc:** Ettinger, Jonathan; Evans, Rachel (ENRD); Flanagan.Sarah@epamail.epa.gov

**Subject:** Confidential -- For Settlement Purposes

Peter - As I mentioned, I'm not sure I follow the allocation of payments by CDE and the federal PRPs. The following table shows the total response costs and damages estimated for three categories (EPA, NRD and NJ),

the dollars being paid respectively by CDE and the Federal PRPs towards each of those categories, the percentages of those categories being paid by CDE and the Federal PRPs, and the allocation of settlement payments by CDE and the Federal PRPs among each of the three categories.

				% of Total Paid		Allocation	
	Total \$\$	CDE \$\$	Fed PRP \$\$	CDE	Fed PRP	CDE	Fed PRPs
EPA	\$365,516,812	\$271,944,508	\$13,049,281	74.40%	3.57%	74.01%	80.14%
NRD	\$93,800,000	\$75,040,000	\$2,251,200	80.00%	2.40%	20.42%	13.83%
NJ	??	\$20,468,941	\$982,204	??	??	5.57%	6.03%
Total		\$367,453,449	\$16,282,685			100.00%	100.00%

Why is the % of the total costs in each category being paid by CDE (and by the Federal PRPs different)? And why is the allocation among the categories different between CDE and the Federal PRPs? Also, the percentages of the total for each category being paid by CDE based on the numbers set forth in paragraphs 6-8 of the draft CD doesn't really jive with the percentages listed in paragraph 22. What am I missing?

Best regards,  
Robby

United States Treasury Regulations require us to disclose the following: Any tax advice included in this document and its attachments was not intended or written to be used, and it cannot be used, for the purpose of avoiding penalties under the Internal Revenue Code.

This email message and any attachments are confidential and may be privileged. If you are not the intended recipient, please notify Foley Hoag LLP immediately -- by replying to this message or by sending an email to [postmaster@foleyhoag.com](mailto:postmaster@foleyhoag.com) -- and destroy all copies of this message and any attachments without reading or disclosing their contents. Thank you.

For more information about Foley Hoag LLP, please visit us at [www.foleyhoag.com](http://www.foleyhoag.com).